

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 876 - SB 1139

March 18, 2017

SUMMARY OF BILL: Enhances the offense of possession a firearm while an order of protection is entered against the defendant to a class E felony.

Enhances the offense of possessing a firearm with a prior conviction for domestic violence or is subject to an order of protection, to a class E felony.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$667,900/Incarceration*
\$89,700/General Fund

Assumptions:

- Tennessee Code Annotated § 39-17-1307(f) prohibits a person from possessing a firearm if the person has a prior conviction for domestic violence or is subject to an order of protection. Tennessee Code Annotated § 39-13-113(h) prohibits any person from possessing a firearm while an order of protection is entered against that person.
- Tennessee Code Annotated § 39-13-1307(f) and Tenn. Code Ann. §39-13-113(h) have subsections that cross reference each other providing that if a violation of that section also constitutes a violation of the other, then the defendant may be charged and convicted under either statute or both.
- It is assumed that statistics for convictions under these two statutes will overlap.
- Statistics from the Administrative Office of the Courts (AOC) indicate an average of 101 convictions per year for violations of protection orders. These statistics represent convictions at the state court level. It is assumed that only 10 percent of misdemeanor convictions are at the state court level. It is assumed that there are a total of 1,010 convictions ($101 \times 10 = 1,010$) per year for misdemeanor violations of Tenn. Code Ann. § 39-13-113(h). It is assumed that 10 percent ($1,010 \times .1 = 101$) of these violations result from possessing a firearm.
- Statistics from the AOC indicate an average of 100.8 convictions for class A misdemeanor convictions under Tenn. Code Ann. § 39-17-1307. These statistics represent convictions at the state court level. It is assumed that only 10 percent of misdemeanor convictions are at the state court level. It is assumed that there are a total

of 1,008 convictions ($100.8 \times 10 = 1,008$) per year for misdemeanor violations of Tenn. Code Ann. § 39-17-1307.

- These include convictions for multiple misdemeanor offenses under Tenn. Code Ann. § 39-17-1307, not just under subsection (f). It is assumed that 10 percent ($1,008 \times 0.1 = 101$) of these convictions are under subsection (h).
- It is assumed that 30 percent ($101 \times 0.3 = 30$), or 30 cases overlap. Accounting for overlap, it is assumed that the proposed legislation will result in 172 cases [(101 convictions + 101 convictions) – 30 overlap cases] being enhanced to class E felony.
- It is assumed that most persons convicted will get probation. It is assumed that only 10 percent ($172 \times 10.0\% = 17.2$) of such convictions will result in admission into Department of Correction (DOC) custody.
- According to the Department of Correction (DOC), the average operating cost per offender per day for calendar year 2017 is \$68.75.
- The average time served for a class E felony is 1.4 years.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will account for two ($17.2 \times .1178$) additional admissions for a total of 19 ($17 + 2$).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 19 offenders serving 1.4 years (511.35 days) at a cost of \$35,155 ($\68.75×511.35 days) per offender. The total cost for 19 offenders is \$667,945 ($\$35,155 \times 19$).
- The DOC will need additional probation officers to handle the 155 probationers [(101 convictions + 101 convictions) - 30 overlap cases – 17 incarcerated].
- The DOC will require two additional probation officers to handle the additional caseload. As a result, the DOC will require additional appropriations from the General Fund to fund these positions.
- A probation officer receives a salary of \$30,125 plus \$2,800 in recurring expenditures for travel and supplies. The proposed legislation will increase recurring state expenditures from the General Fund by \$89,699 { $[\$30,125 + (\$30,125 \times 0.0894 \text{ benefits}) + (\$30,125 \times 0.0765 \text{ FICA}) + \$6,926.76 \text{ insurance} + \$2,800 \text{ travel and supplies}] \times 2$ }.
- The proposed legislation will create approximately 200 new felony cases, but will equally decrease the number of misdemeanor cases.
- It is assumed that the courts, public defenders, and district attorneys can accommodate the impact to their caseloads within existing resources.

**Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in dark ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

/trm